

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

ADRIANA ORNELAS, as Administrator of)	
the Estate of RODOLFO ROMO, Deceased,)	
)	
Plaintiff,)	
)	
vs.)	Civil No. 15-CV-00547-SMY-SCW
)	
THE UNITED STATES OF AMERICA,)	
)	
)	
Defendant,)	
)	
vs.)	
)	
TOTALL METAL RECYCLING, INC.)	
)	
Third-Party Defendant.)	

MOTION FOR LEAVE TO FILE
SUPPLEMENT TO TOTALL METAL RECYCLING, INC.'S
RESPONSE IN OPPOSITION TO MOTION TO DISMISS

Comes now third-party defendant/counterclaimant, Total Metal Recycling, Inc., (hereinafter, "TMR"), by and through its attorneys, Donovan Rose Nester, P.C., and for its Motion for Leave to File Supplement to Totall Metal Recycling, Inc.'s Response in Opposition to Motion to Dismiss, hereby states as follows:

1. On or about June 23, 2016, defendant, The United States of America ("USA"), filed its Motion to Dismiss Contract Claims.
2. Thereafter, on or about July 28, 2016, TMR filed its Response in Opposition to Motion to Dismiss Contract Claims.

3. On July 29, 2016, subsequent to TMR's filing of its Response in Opposition to Motion to Dismiss, the USA tendered its expert witness disclosures, wherein it disclosed the report of Chester R. Razer, MS CSP CPM.

4. Said report discloses numerous opinions which rely on a purported interpretation of the MOU, and thus same supports the argument submitted by TMR in its Response in Opposition to Motion to Dismiss.

5. TMR respectfully requests that this Court grant leave to file a supplement to its Response in Opposition to Motion to Dismiss to address the report of Mr. Razer, since said Report was not made available prior to the date TMR filed its Response in Opposition to Motion to Dismiss.

6. A proposed Supplement to Response in Opposition to Motion to Dismiss is attached hereto as Exhibit "1".

WHEREFORE, third-party defendant/counterclaimant, Total Metal Recycling, Inc. respectfully requests that this Court grant it leave to file a supplement to its Response in Opposition to United States of America's Motion to Dismiss Contract Claims.

BY: /s/Michael J. Nester
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TOTAL METAL RECYCLING, INC.)	
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CERTIFICATE OF SERVICE

I hereby certify that on August 17, 2016, I electronically filed the foregoing document with the Clerk using the CM/ECF system which will send notification of such filings to the following:

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DEFENDANT/COUNTERCLAIMANT
TOTAL METAL RECYCLING, INC**